

wants 100 percent. I can understand that. That is the way a lot of people get when they have power. They want it all. If you are against him, then he thinks you are against everything he stands for as opposed to having legitimate disagreements.

So this President has come to the majority in the Senate and basically said: Change the rules. Do it the way I want it done. And I guess there were not very many voices on the other side of the aisle that acted the way previous generations of Senators have acted and said: Mr. President, we are with you. We support you. But that is a bridge too far. We cannot go there. You have to restrain yourself, Mr. President. We have confirmed 95 percent of your nominees. And if you cannot get 60 votes for a nominee, maybe you should think about who you are sending to us to be confirmed because for a lifetime appointment, 60 votes, bringing together a consensus of Senators from all regions of the country, who look at the same record and draw the same conclusion, means that perhaps that nominee should not be on the Federal bench.

But, no, apparently that is not the advice that has been given to the President. Instead, it looks as though we are about to have a showdown where the Senate is being asked to turn itself inside out, to ignore the precedent, to ignore the way our system has worked—the delicate balance we have obtained that has kept this constitutional system going—for immediate gratification of the present President.

When I was standing on the banks of the Hudson River this morning, looking at General Washington's headquarters, thinking about the sacrifice that he and so many others made, many giving the ultimate sacrifice of their life, for this Republic—if we can keep it, as Benjamin Franklin said—I felt as though I was in a parallel universe because I knew I was going to be getting on an airplane and coming back to Washington. And I knew the Republican majority was intent upon this showdown. I knew the President had chimed in today and said he wants up-or-down votes on his nominees. And I just had to hope that maybe between now and the time we have this vote there would be enough Senators who will say: Mr. President, no. We are sorry, we cannot go there. We are going to remember our Founders. We are going to remember what made this country great. We are going to maintain the integrity of the U.S. Senate.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I understand we have 1 minute left.

The PRESIDING OFFICER. The Senator has 1 minute 40 seconds, to be exact.

Mr. LEAHY. I thank the distinguished Presiding Officer, and I thank the Senator from New York for her comments.

Mr. President, I would simply reiterate what I said before. If the vote on

the nuclear option was cast in secret, from everything I have been told by my fellow Senators, it would go down to crashing defeat. As Senators know, we have to break the rules to change the rules.

Again, I would just urge that both leaders, both the Republican and Democratic leaders, make it clear to their Members that nobody is going to be punished for a vote on conscience. I hope Senators will stand up and be a profile in courage, vote their conscience, and vote the right way.

Mr. President, the hour of 5:30 has arrived, so I yield the floor.

QUORUM CALL

Mr. President, I see the Republican leader is not on the floor yet, so I will suggest the absence of a quorum to accommodate him. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 3 Ex.]

Baucus	Frist	Nelson, Nebraska
Bingaman	Gregg	Pryor
Burr	Inouye	Reid
Cantwell	Kennedy	Salazar
Cochran	Leahy	Schumer
Cornyn	Lincoln	Stabenow
Dayton	Lott	
Durbin	Murkowski	

The PRESIDING OFFICER. A quorum is not present.

Mr. FRIST. Mr. President, I move to instruct the Sergeant at Arms to request the presence of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion of the Senator from Tennessee. The yeas and nays were ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Mississippi (Mr. COCHRAN), the Senator from New Hampshire (Mr. GREGG), the Senator from Texas (Mr. CORNYN), the Senator from Mississippi (Mr. LOTT), and the Senator from Alaska (Ms. MURKOWSKI).

Further, if present and voting, the Senator from Texas (Mr. CORNYN) would have voted: "yea."

Mr. DURBIN. I announce that the Senator from Minnesota (Mr. DAYTON), the Senator from Hawaii (Mr. INOUE), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Arkansas (Mrs. LINCOLN), are necessarily absent.

The PRESIDING OFFICER (Mr. THUNE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 90, nays 1, as follows:

[Rollcall Vote No. 126 Ex.]

YEAS—90

Akaka	Dole	McConnell
Alexander	Domenici	Mikulski
Allard	Dorgan	Murray
Baucus	Durbin	Nelson (FL)
Bayh	Ensign	Nelson (NE)
Bennett	Enzi	Obama
Biden	Feingold	Pryor
Bingaman	Feinstein	Reed
Bond	Frist	Reid
Boxer	Graham	Roberts
Brownback	Grassley	Rockefeller
Bunning	Hagel	Salazar
Burns	Harkin	Santorum
Burr	Hatch	Sarbanes
Byrd	Hutchison	Schumer
Cantwell	Inhofe	Sessions
Carper	Isakson	Shelby
Chafee	Jeffords	Smith
Chambliss	Johnson	Snowe
Clinton	Kerry	Specter
Coburn	Kohl	Stabenow
Coleman	Kyl	Stevens
Collins	Landrieu	Sununu
Conrad	Lautenberg	Talent
Corzine	Leahy	Thomas
Craig	Levin	Thune
Crapo	Lieberman	Vitter
DeMint	Lugar	Voinovich
DeWine	Martinez	Warner
Dodd	McCain	Wyden

NAYS—1

Allen

NOT VOTING—9

Cochran	Gregg	Lincoln
Cornyn	Inouye	Lott
Dayton	Kennedy	Murkowski

The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The majority leader.

Mr. FRIST. Mr. President, for the information of our colleagues, we will be voting around noon tomorrow on the cloture motion with respect to Priscilla Owen. We will be in session through the night, and time is roughly equally divided.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 6:04 p.m., recessed subject to the call of the Chair and reassembled at 6:13 p.m., when called to order by the Presiding Officer (Mr. THUNE).

NOMINATION OF PRISCILLA RICHMAN OWEN TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT—Continued

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the previous order, with respect to the division of time, be modified to extend until 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. I ask the Chair, what is the pending business?

The PRESIDING OFFICER. The pending business is the nomination of Judge Priscilla Owen to be U.S. circuit court judge.